



## Filing Receipt

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**PROJECT NO. 51841**

**REVIEW OF 16 TAC §25.53  
RELATING TO ELECTRIC  
SERVICE EMERGENCY  
OPERATIONS PLANS**

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**BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ONCOR ELECTRIC DELIVERY COMPANY LLC’S INITIAL COMMENTS**

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**ONCOR ELECTRIC DELIVERY COMPANY LLC’S INITIAL COMMENTS**

**TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:**

COMES NOW Oncor Electric Delivery Company LLC (“Oncor”), and timely files these initial comments on the new rule proposed in this Project, 16 Tex. Admin. Code (“TAC”) § 25.53, relating to Electric Service Emergency Operations Plans (“EOPs”) and would respectfully show the following:

**I. INTRODUCTION AND GENERAL COMMENTS**

As the Legislature, the Commission, and Texas utilities recognize, EOPs are an important foundation for a resilient electric grid. A uniform structure for the EOPs will enable easy review by interested parties and Commission staff.

To these ends, Oncor understands the need for both the Commission and the public to understand and have access to utilities’ plans for restoring and maintaining electric service during a significant emergency. Equally important, however, is the need to protect the security of the electric system. Oncor respectfully urges the Commission to carefully balance the need for transparency with the need for security of information about the electric system. From Oncor’s perspective, in some instances, the proposed new § 25.53 has not achieved the correct balance and instead potentially sacrifices the security of information about the electric system in favor of a level of transparency that exceeds the public interest needs mentioned above. In the comments below, Oncor respectfully offers suggestions on how to better maintain the existing balance between transparency and security – a balance that has been reflected in the Commission’s rules for decades.

To assist the Commission Staff, Oncor has included Exhibit A to these Comments, which contains a redlined version of the proposed § 25.53 that reflects the suggested revisions discussed below. Exhibit B to these Comments is the requested Executive

Summary of the comments that includes a bulleted list covering the substantive recommendations made in these comments.

## **II. REQUEST FOR HEARING**

Oncor respectfully requests a hearing on the new § 25.53 proposed in this proceeding.

## **III. SPECIFIC COMMENTS**

Oncor provides the following comments concerning specific provisions of the proposed rule.

### **A. Subdivision (b)(3) – Definition of “Emergency”**

This subdivision contains a broad definition that may have the unintended consequence of requiring a utility to initiate its EOP when it is not needed. Because there is no indication of the number of customers that must be potentially harmed during the “emergency” or the required magnitude of the “emergency,” the proposed term could be interpreted to apply to a situation in which a very small number of customers or even one customer is potentially affected by a “credible risk to the continuity of service.” Historically, utilities have only initiated their EOPs when the event or incident affected, or had the potential to affect, a significant portion of the utility’s system or a significant number of customers.<sup>1</sup> The EOP has not been initiated every time a storm rolls through a neighborhood or town, or every time electric service to an area is out due to a vehicle hitting a pole or a backhoe hitting an underground circuit. In Oncor’s view, consistent with historic practice, the initiation of its EOP is only needed for significant events.

In other similar regulatory contexts, the term “emergency” is used to refer to circumstances affecting a system and not individual customers. For example, North American Electric Reliability Corporation (“NERC”) Reliability Standard EOP-011 requires Balancing Authorities, Reliability Coordinators, and Transmission Operators to have an Operating Plan “to mitigate

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<sup>1</sup> 16 TAC § 25.52(c)(5) defines “Interruption, significant” as follows:

An interruption of any classification lasting one hour or more and affecting the entire system, a major division of the system, a community, a critical load, or service to interruptible customers; and a scheduled interruption lasting more than four hours that affects customers that are not notified in advance. A significant interruption includes a loss of service to 20% or more of the system's customers, or 20,000 customers for utilities serving more than 200,000 customers. A significant interruption also includes interruptions adversely affecting a community such as interruptions of governmental agencies, military bases, universities and schools, major retail centers, and major employers.

Emergencies in its Transmission Operator Area.” NERC defines “Emergency” or “BES Emergency” as follows: “Any abnormal system condition that requires automatic or immediate manual action to prevent or limit the failure of transmission facilities or generation supply that could adversely affect the reliability of the Bulk Electric System.”

Notably, the existing 16 TAC § 25.53 does not define “emergency,” and other Commission Substantive Rules use the term “emergency” in various ways.<sup>2</sup> Substantive Rule § 25.5(128) defines “system emergency” as “[a] condition on a utility’s system that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.” Oncor suggests that a utility should implement its EOP when there is a “system emergency” as that term is defined in § 25.5(128) and not when there is a risk of service interruption to a single customer or small group of customers. Oncor suggests that the proposed definition of “Emergency” be revised to read as follows:

- (3) Emergency -- ~~any incident resulting from an imminent hazard or threat that endangers life or property or presents credible risk to the continuity of electric service.~~ **has the same meaning as the term “system emergency” defined in §25.5 of this title.** The term includes an emergency declared by local, state, or federal government; ERCOT; or a Reliability Coordinator that is applicable to the entity.

#### **B. Subdivision (c)(1) – Filing Deadline**

The proposed subdivision (c)(1) requires that an entity file an EOP by April 1, 2022. Depending on when the new rule is approved, Oncor is concerned that setting a hard deadline of April 1 may not provide enough time for entities to finalize their EOPs after addressing any changes to the proposed § 25.53 approved by the Commission and conducting the required training on the EOP. To provide more flexibility to entities in finalizing their EOPs and conducting the required training, Oncor suggests that the April 1, 2022 date be revised to “90 days after the commission’s adoption of this rule” as shown in redline in the next section below.

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<sup>2</sup> See, e.g., 16 TAC § 25.52(b)(2) and (3) (emergencies resulting from failure of service and national emergency); 16 TAC § 25.55 (defines “weather emergency”); 16 TAC § 25.83(d) (reporting requirements for emergency projects); 16 TAC § 25.343(g) (emergency provision of competitive energy service).

**C. Paragraph (c)(1)(A) – Filing of EOP in its Entirety**

This paragraph of the proposed rule would require an entity to file with the Commission its unredacted EOP in its entirety and also a public, redacted EOP. Oncor does not believe that this requirement should be adopted as written and instead suggests two alternatives for this paragraph (c)(1)(A). Requiring the filing of an entire unredacted EOP creates an unavoidable risk of public disclosure of important and sensitive operational data due to the requirements of Tex. Gov't Code §§ 551.001 – 552.353 (“Texas Public Information Act”). While the Texas Public Information Act provides certain exceptions, the determination of whether information filed at the Commission must be publicly disclosed in response to a request from a member of the public is ultimately beyond the control of the Commission. Therefore, Oncor respectfully suggests that § 25.53(c)(1)(A) should be written in a manner that avoids this risk of public disclosure of sensitive operational data and still provides the Commission and the public with the information they need. Oncor’s two proposals for revising (c)(1)(A) to achieve that outcome are reflected below.

For decades, Oncor’s Emergency Preparedness Plans have governed critical aspects of the Company’s operations in various emergency and short-supply conditions. Oncor has revised those plans and procedures many times over the years based on experience and lessons learned, and continues to evaluate those plans and procedures at least annually. These plans and procedures contain some of the most sensitive and critical operational information that Oncor has. Portions of that information have also been appropriately classified as Critical Energy Infrastructure Information (“CEII”), ERCOT Critical Energy Infrastructure Information (“ECEII”), or confidential employee contact information. Oncor believes that the most critical and confidential portions of the EOP should continue to be as heavily protected as they are today.

Tex. Util. Code § 186.007(a-1)(1) requires the Commission to “review emergency operations plans on file with the commission,” but recognizes that there is highly sensitive data in some EOPs that should be protected from public disclosure. Therefore, Subsection (f) of that section states that filed EOPs “are public information except for the portions of the plan considered confidential under Chapter 552, Government Code, or other state or federal law.” That subsection (f) further provides: “If portions of a plan are designated as confidential, the

plan shall be provided to the commission in a redacted form for public inspection with confidential portions removed.” Thus, Tex. Util. Code § 186.007(a-1)(1) contemplates that any confidential information should be redacted from what is provided to the Commission.

To protect the sensitive information included in EOPs, Oncor suggests in its first alternative that the subdivision (c)(1) be revised to explicitly require a utility to file either its EOP in its entirety *or* a redacted version that removes confidential portions. To ensure that the Commission can complete all of its duties under the law, the rule can further provide that each utility must make available a complete unredacted version of its EOP to the Commission for inspection in Austin.

To that end, Oncor suggests that subdivision (c)(1) be revised as follows:

- (1) An entity must file an EOP **that lacks confidential portions in its entirety; if the entity’s EOP does contain confidential portions, the entity must file a redacted form of the EOP for Commission review and public inspection with the confidential portions removed, and must also**~~under this section~~ **make a complete unredacted copy of the EOP available to the commission for inspection in Austin within 90 days after the commission’s adoption of this rule** by April 1, 2022. Beginning in 2023, an entity must annually file an EOP, **complete or redacted**, no later than February 15 in the manner prescribed by the commission. **If the entity, files a redacted EOP, it must also make a complete unredacted copy of the EOP available to the commission for inspection in Austin.**
- (A) ~~— An entity must file with the commission its unredacted EOP in its entirety and a public, redacted EOP.~~

As an alternative, Oncor suggests that the Commission could continue the current option in the existing § 25.53 that allows an entity to file a copy of its EOP or a comprehensive summary of its EOP. Allowing the filing of a summary would address the concern about the submission of information that would otherwise need to be redacted as ECEII, CEII, or otherwise confidential information. Under this alternative, paragraph (c)(1)(A) would be revised as follows:

- (1) An entity must file an EOP **or a comprehensive detailed summary of its EOP** under this section **and make a complete unredacted copy of the**



**EOP available to the commission for inspection in Austin within 90 days after the commission's adoption of this rule** by ~~April 1, 2022~~. Beginning in 2023, an entity must annually file an EOP **or a comprehensive detailed summary of its EOP** no later than February 15 in the manner prescribed by the commission **and make a complete unredacted copy of the EOP available to the commission for inspection in Austin**.

~~(A) — An entity must file with the commission its unredacted EOP in its entirety and a public, redacted EOP.~~

**D. Paragraph (c)(1)(C) – Tracking and Filing of Lessons Learned**

This paragraph requires the utility to keep track of each incident for which it activates its EOP, a summary after-action report that includes lessons learned, and an outline of changes made to the EOP as a result. If the term “emergency” is interpreted more broadly to include more than “system emergencies,” Oncor objects to this requirement and suggests its deletion because it imposes a significant additional administrative burden on the utility for what will likely be little helpful information. If, however, the term “emergency” is interpreted consistently with historical activation of EOPs as Oncor’s position described above, then Oncor does not object to this provision.

**E. Subdivision (c)(4) – Updated EOP Filings**

Subdivision (c)(4) addresses updated filings of an entity’s EOP. Paragraph (c)(4)(B) appears to be redundant to paragraph (c)(4)(A), and Oncor suggests that paragraph (c)(4)(B) be deleted. Paragraph (c)(4)(A) requires an entity to file an updated EOP if commission staff determines that “the entity’s EOP on file does not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency.” Paragraph (c)(4)(B) provides that an entity “must file an updated EOP in response to feedback provided from commission staff.” If the entity has satisfied the commission staff under paragraph (c)(4)(A), then what other feedback could the commission staff offer that would require a separate update of an EOP? If the staff is not satisfied that an updated EOP contains sufficient information, then the submitting entity has a continuing obligation under paragraph (c)(4)(A) to file an

additional updated EOP until the staff is satisfied that the EOP contains sufficient information. Thus, there is no need for paragraph (c)(4)(B).

Oncor suggests that Subdivision (c)(4) should be revised to read as follows:

- (4) Updated filings. An entity must file an updated EOP with the commission within 30 days under the following circumstances.
  - (A) An entity must file an updated EOP if commission staff determines that the entity's EOP on file does not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency.
  - ~~(B) An entity must file an updated EOP in response to feedback provided from commission staff.~~
  - (B) An entity must file an updated EOP if the entity makes a significant change to its EOP. A significant change to an EOP includes a change that has a material impact on how the entity would respond to an emergency. The entity must file **with the commission** the updated EOP **or a comprehensive detailed summary of its updated EOP and make a complete unredacted copy of the updated EOP available to the commission for inspection** ~~with the commission~~ no later than 30 days after the change takes effect.
  - ~~(C)~~ An entity with operations within the ERCOT power region must submit its updated EOP under paragraphs (c)(4)(A); **and** (c)(4)(B); ~~and (c)(4)(C)~~ to ERCOT within 30 days of filing the updated EOP with the commission.

#### **F. Subdivision (c)(5) – ERCOT's Maintenance of EOP**

Subdivision (c)(5) requires ERCOT to “maintain a current EOP in its entirety, consistent with the requirements of this section and available for review by the commission or the commission’s designee.” It is not clear, however, whether this subdivision (1) requires ERCOT to maintain only its own EOP and to make that EOP available for review to the Commission or its designees, or (2) requires ERCOT to maintain a compilation of the current EOPs for all entities within ERCOT and to make those EOPs available to the Commission and

its designees. Oncor believes that this proposed section should be revised to make it clear that this subdivision means that ERCOT is to maintain its own EOP and make that EOP available to the Commission. Each utility should have control of its own EOP, particularly given the critical and confidential information that may be contained within that EOP.

For clarity, Oncor suggests that this subdivision be revised as follows:

(5) Notwithstanding the other requirements of this subsection, ERCOT must maintain **its own** a current EOP in its entirety, consistent with the requirements of this section and available for review by the commission or the commission's designee.

#### **G. Subsection (d) – Information to be included in the EOP**

The first sentence in subsection (d) of the proposed rule requires that an entity's EOP must address "both common operational functions that can be used for every type of emergency and annexes that outline the entity's response to the types of emergencies specified in subsection (e)." The phrase "common operational functions that can be used for every type of emergency" does not appear in the existing § 25.53 and is unclear in this context. An EOP should never be designed to address "every type of emergency," and to expand the EOP to include "common operational functions" for "every type of emergency" would make the EOP unwieldy and unworkable. Instead, as described above, Oncor believes that an EOP should be designed to address "system emergencies" as defined in § 25.5(128).

To address this concern, Oncor suggests that the first sentence in subsection (d) be revised to read as follows:

(d) **Information to be included in the emergency operations plan.** An entity's EOP must address both ~~common operational functions that can be used~~ **in** ~~for every type of emergencies~~ **ies** y and annexes that outline the entity's response to the types of emergencies specified in subsection (e).

#### **H. Subdivision (d)(4) – Affidavit Requirements**

Oncor has comments on two paragraphs of subdivision (d)(4) that are described in the sections below.

**i. Paragraph (d)(4)(A)**

Paragraph (d)(4)(A) requires the affidavit to be signed by the highest ranking officer to include an affirmation that relevant operating personnel have received training on the contents of the EOP. For clarity, Oncor recommends that this paragraph be revised to ensure that the relevant personnel are trained on those portions of the EOP that are applicable to their work responsibilities – not the entire EOP. A utility’s EOP is, and will continue to be, comprehensive, covering all necessary and required topics. All “relevant” employees who support the implementation of the EOP do not need to be trained on all elements of the EOP; they need to be trained on the elements of the EOP that they are responsible for implementing. Thus, Oncor suggests the following minor revisions to this paragraph:

- (4) An affidavit from the entity’s highest-ranking representative, official, or officer with binding authority over the entity affirming the following:
  - (A) relevant operating personnel are familiar with and have received training on the applicable contents of the EOP, and such personnel are committed to following the applicable portions of the EOP except to the extent deviations are appropriate as a result of specific circumstances during the course of an emergency.

**ii. Paragraph (d)(4)(F)**

Paragraph (d)(4)(F) requires the affidavit to be signed by the highest ranking officer to include an affirmation that the entity’s emergency management personnel who are designated to interact with “local, state, and federal emergency management officials during emergency events” have received the specified National Incident Management System training. Oncor interprets this section not to apply to an entity’s personnel designated to interact with ERCOT because ERCOT is not a political subdivision. In addition, those Oncor operating personnel who interact with ERCOT during emergency events receive significant training on what is required during communications with ERCOT through the NERC System Operator Certification & Credential Maintenance Program as well as other training provided by ERCOT and by Oncor. For clarity, Oncor suggests that paragraph (d)(4)(F) be revised as follows:

- (F) the entity’s emergency management personnel who are designated to interact with local, state, and federal emergency management

officials during emergency events have received National Incident Management System training, specifically IS-700.a, IS-800.b, IS-100.b, and IS-200.b. **The entity's personnel who are designated to interact with ERCOT during emergency events are not subject to the requirements of this paragraph.**

**I. Paragraphs (e)(1)(A) and (e)(1)(B) – Cold Weather Annex and Hot Weather Annex**

The operational plans necessary to mitigate the hazards of cold weather, such as ice storms, are essentially the same as the operational plans necessary to mitigate the hazards of hot weather, such as tornados and thunderstorms. Thus Oncor suggests that the separate annexes for cold weather and hot weather be combined into one “Emergency Restoration” annex. That annex would be analogous to Oncor’s existing Emergency Restoration Plan, which addresses service restoration after various types of major storms and covers damage evaluation, storm management, mutual assistance, and other topics. Redlines shown below reflect this proposed change.

**i. Subparagraphs (e)(1)(A)(i) & (ii) and (e)(1)(B)(i) & (ii)**

From Oncor’s perspective, the subparagraphs (e)(1)(A)(ii) and (e)(1)(B)(ii) are redundant and should be deleted. Subparagraphs (e)(1)(A)(i) and (e)(1)(B)(i) require that the EOP include a cold weather emergency annex and a hot weather emergency annex and also require that those annexes also include a “checklist for transmission facility personnel to use during” the weather emergency response. As stand-alone subparagraphs, it is not clear exactly what the “checklist” is supposed to address. If the checklist is intended to provide step-by-step instructions for implementing the operational plans, then for Oncor, such a checklist would be included within the operational plan intended to mitigate the hazards of the weather emergency. Therefore, in Oncor’s view, there is no need for a separate item requiring a checklist, and subparagraphs (e)(1)(A)(ii) and (e)(1)(B)(ii) should be deleted.

To reflect the suggestions made in this section I, Oncor recommends that paragraph (e)(1)(A) be revised as follows and paragraph (e)(1)(B) be deleted:

(A) **An Emergency Restoration** ~~cold weather emergency annex~~ that includes:

- (i) operational plans intended to mitigate the hazards of a ~~cold~~ weather emergency, separate and distinct from the weather preparation standards required under §25.55 (relating to Weather Emergency Preparedness); **and**
- ~~(ii) a checklist for transmission facility personnel to use during cold weather emergency response; and~~
- (iii) a requirement for pre- and post-weather emergency meetings to review lessons learned from past ~~cold~~ weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.

~~(B) A hot weather emergency annex that includes:~~

- ~~(i) operational plans intended to mitigate the hazards of a hot weather emergency, separate and distinct from the weather preparation standards required under §25.55;~~
- ~~(ii) a checklist for transmission facility personnel to use during hot weather emergency response; and~~
- ~~(iii) a requirement for pre- and post-weather emergency meetings to review lessons learned from past hot weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.~~

**J. Paragraph (e)(1)(C) – Load Shed Annex**

Oncor has several questions and concerns about paragraph (e)(1)(C) that are described below.

**i. Subparagraph (e)(1)(C)(i)**

Subparagraph (e)(1)(C)(i) addresses procedures for controlled shedding of load “whether caused by planned or forced interruption of service.” From Oncor’s perspective, this quoted phrase does not make sense because controlled load shedding has historically not been considered a “planned interruption” or a “forced interruption.” While load shedding is treated as an emergency situation, planned and forced interruptions of service are generally not considered emergencies that trigger the EOP. In fact, Commission Substantive Rule § 25.52 defines “forced interruptions” as “[i]nterruptions, exclusive of major events, that result from conditions directly associated with a component requiring that it be taken out of service immediately, either automatically or manually, or an interruption caused by improper operation of equipment or human error.” Thus, Oncor suggests that subparagraph (e)(1)(C)(i) be revised as follows:

- (C) A load shed annex that must include:
  - (i) procedures for controlled shedding of load, ~~whether caused by planned or forced interruption of service;~~ and

**ii. Subparagraph (e)(1)(C)(iii)**

Oncor has several comments on subparagraph (e)(1)(C)(iii), which requires that the load shed annex include a registry of critical load customers. First, it is important to note that load shed plans are generally not customer-specific and are instead prepared on a circuit-by-circuit basis. The fact that a circuit serves certain critical loads is noted in Oncor’s load shed plan, but specific customers are not identified by name. While Oncor maintains a list of critical customers, that list is not contained within Oncor’s load shed plan. Moreover, it should also be noted that not all critical loads are exempt from load shed. Only a small subset of critical customers that are determined to be critical to public health or welfare of the community or supporting the integrity of the electric system are exempted from load shed. Thus, Oncor does not support including the registry of critical load customers within the load shed annex.

Instead, Oncor maintains its list of critical customers in its Customer Care and Billing System. The System information informs Oncor’s restoration activities and serves to ensure that those customers receive advanced notice, if reasonably possible, if Oncor must interrupt

delivery service in the event of an emergency. Thus, for Oncor, including the list of critical customer names within the load shed plan would not be useful and could be misleading.

Second, as proposed, subparagraph (e)(1)(C)(iii) is unclear. The Commission rules specify multiple categories of critical customers, whether the customer is residential, business, or governmental. Oncor's first comment on this sentence is that it needs to be clear which "critical load customers" are to be listed on the required registry. Commission's Substantive Rules § 25.5(21) and § 25.52(c)(1) define "Critical loads" as "[l]oads for which electric service is considered crucial for the protection or maintenance of public health and safety; including but not limited to hospitals, police stations, fire stations, critical water and wastewater facilities, and customers with special in-house life-sustaining equipment." Substantive Rule § 25.52(c)(2) defines the new term "critical natural gas facility," and Substantive Rule § 25.497 defines "Critical Load Public Safety Customer," "Critical Load Industrial Load Customer," "Chronic Condition Residential Customer," and "Critical Care Residential Customer." Texas Water Code § 13.1396 also requires water utilities to seek critical load status from the electric utility that serves the water utility. Thus, as written, it is not clear whether the reference to "critical load customers" in this subparagraph (e)(1)(c)(iii) includes all types of customers identified in Substantive Rules § 25.52(c)(1) & (2) and § 25.497 as well as Texas Water Code § 13.1396 or whether it includes only those customers considered "critical loads" as defined in § 25.5(22) and § 25.52(c)(1).

Third, the first sentence of subparagraph (iii) is also unclear because of the phrase "directly served, if maintained by an electric utility, an electric cooperative, or a municipally owned utility" appears to modify "critical load customers." Oncor is not responsible for and has no knowledge of critical load customers that may be served behind a wholesale distribution point of delivery. Oncor informs wholesale customers of a load shed event, and it is incumbent on those electric providers (whether transmission and distribution utility, electric cooperative, or municipally owned utility) to communicate with their retail customers. If a retail customer behind a wholesale distribution point of delivery should be exempt from load shed under the criteria discussed above, the electric provider must coordinate with its wholesale distribution provider during the development of load shed plans rather than in real time during an emergency.



Fourth, the portion of the last sentence of subparagraph (iii) concerning providing assistance to critical load customers is also unclear. Oncor recognizes that the existing version of § 25.53 includes a similar provision, but Oncor is not aware of any circumstance in which this phrase has been defined. The primary assistance utilities provide to critical load customers is the restoration of their electric service.

Consequently, Oncor suggests that subparagraph (e)(1)(C)(iii) be deleted in its entirety.

**K. Paragraphs (e)(1)(G) & (H) – Cyber Security Annex and Physical Security Incident Annex**

Paragraphs (e)(1)(G) and (H) are proposed new additions that do not appear in the existing § 25.53. The Legislature recognized the importance of cybersecurity when it enacted SB64 and SB936 during the 86<sup>th</sup> Regular Legislative Session in 2019.<sup>3</sup> The Commission adopted a corresponding rule and engaged a cybersecurity monitor (“CSM”) as a result.<sup>4</sup> Notably, the 2021 legislation regarding electric utilities, including the provision for emergency operations plans, did not address additional cybersecurity measures.

Furthermore, the cyber security and physical security of the electric grid also are governed by existing NERC Reliability Standards that contain complex and rigorous requirements applicable to registered entities, including transmission owners and operators. For example, CIP-003-8 Cyber Security – Security Management Controls<sup>5</sup> contains many requirements governing security management controls that establish responsibility and accountability for protecting BES Cyber Systems against compromise. There are numerous other NERC Reliability Standards that provide additional requirements governing both cyber and physical security. Those applicable NERC requirements are addressed in each utility’s policies, programs, and procedures. To maintain the security of the grid, the details of those policies, programs and procedures, many of which contain CEII, cannot be publicly filed or disclosed. Those plans, procedures and processes would provide a blue print for those wishing to do

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<sup>3</sup> Tex. Util. Code §§ 31.052 and 39.1516.

<sup>4</sup> 16 TAC § 25.367.

<sup>5</sup> Requirement 1 of CIP-003-8 requires the Responsible Entity to review once every 15 calendar months its documented cyber security policies that address, for High and Medium Impact BES Cyber Systems, among other things, Electronic Security Perimeters, including Interactive Remote Access; physical security of BES Cyber Systems; incident reporting and response planning; and recovery plans for BES Cyber Systems.

serious harm to the electric grid. Thus, Oncor recommends that paragraphs (e)(1)(G) and (H) be deleted.

**L. Subdivision (e)(2) – Generation Ownership**

As written, this subdivision would require a transmission and distribution utility that leases or owns generation pursuant to Tex. Util. Code § 39.918 to include at least eight additional annexes to its EOP for its “generation resources.” The types of facilities that a transmission and distribution utility would use for power restoration after a widespread power outage pursuant to Tex. Util. Code § 39.918 should not be considered “generation resources” for purposes of Subdivision (e)(2). Instead, those facilities should be excluded from this requirement, as they are stand-alone resources deployed only when system generation is expected to be unavailable for an extended period of time. The operational plans and requirements for facilities installed pursuant to Tex. Util. Code § 39.918 would be subject to a restoration plan that addresses the use of those facilities. Thus, there is no need to develop separate plans and annexes for those facilities simply to address the requirements specified in (e)(2)(A) through (I).

Moreover, Tex. Util. Code § 39.918(g) requires a transmission and distribution utility that leases or operates facilities under § 39.918(b)(1) or procures, owns, and operates facilities under § 39.918(b)(2) to include in its emergency operations plan “a detailed plan for the use of those facilities.” Thus, as shown below, Oncor suggests that a new subdivision (e)(5) be added to account for the plans required under Tex. Util. Code § 39.918(g).

Oncor recommends that subdivision (e)(2) be revised and a new subdivision (e)(5) be added as shown below:

- (2) An electric cooperative, electric utility, or a municipally owned utility that operates a generation resource in Texas, and a PGC must include the following annexes **listed below** for its generation resources. **For purposes of this subdivision, a facility leased or owned by a transmission and distribution utility pursuant to Tex. Util. Code § 39.918 is not considered a generation resource.**

\* \* \*

- (5) A transmission and distribution utility that leases or operates facilities under § 39.918(b)(1) or procures, owns, and operates facilities under § 39.918(b)(2) must include an annex that details its plan for the use of those facilities.**

**M. Subsection (f) – Drills**

This subsection requires an entity to conduct or participate in one or more drills annually to test its EOP if its EOP has not been implemented in response to an incident within the last 12 months. Oncor suggests that the phrase “the last 12 months” be revised to “the same calendar year.” Making this revision will ensure that an EOP is either activated or the subject of a drill every year. Oncor suggests that the first sentence of subsection (f) be revised as follows:

- (f) **Drills.** An entity must conduct or participate in one or more drills annually to test its EOP if its EOP has not been implemented in response to an incident within the **same calendar year**~~last 12 months~~.

**N. Subsection (g) – Reporting Requirements**

The second sentence in subsection (g) states that “[u]pdates must continue until all incident-related outages are restored or unless otherwise notified by commission staff.” Oncor urges the Commission to revise this subsection to make it clear that updates are not required after service has been restored to all customers capable of receiving service. As the Commission is keenly aware, in those circumstances when a significant weather event has created significant damage to homes and businesses, there may be customers whose homes and businesses are not able to receive electric service for weeks or months. Continuing updates on the status of restoration activities for each of those customers over those weeks or months is not likely to provide significant benefit to the Commission or to the affected customers. Thus, Oncor suggests that subsection (g) be revised as follows:

- (g) **Reporting requirements.** Upon request by commission staff during an activation of the State Operations Center by TDEM, an entity must provide updates on the status of operations, outages, and restoration efforts. Updates must continue until all incident-related outages **of customers able to take**

service are restored or unless otherwise notified by commission staff. After an emergency, commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.

#### **IV. CONCLUSION**

Oncor appreciates the opportunity to comment on the proposed rule and respectfully requests that the Commission consider the comments set forth in this pleading.

**Respectfully submitted,**

By: /s/ Jo Ann Biggs

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**ATTORNEYS FOR ONCOR ELECTRIC  
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**EXHIBIT A**  
**To Oncor's Initial Comments in Project No. 51841**

**§25.53. Electric Service Emergency Operations Plans.**

- (a) **Application.** This section applies to each electric utility, transmission and distribution utility, power generation company (PGC), municipally owned utility, electric cooperative, and retail electric provider (REP), and to the Electric Reliability Council of Texas (ERCOT). The term “entity” as used in this section refers to the above-listed entities.
- (b) **Definitions.**
- (1) **Annex** -- a section of an emergency operations plan (EOP) that addresses how an entity plans to respond to the incidence of a specific hazard or threat.
  - (2) **Drill** -- an operations-based exercise that is a coordinated, supervised activity employed to test an entity's EOP. A drill may be used to develop or test new policies or procedures or to practice and maintain current skills.
  - (3) **Emergency** -- ~~any incident resulting from an imminent hazard or threat that endangers life or property or presents credible risk to the continuity of electric service.~~ **has the same meaning as the term “system emergency” defined in §25.5 of this title.** The term includes an emergency declared by local, state, or federal government; ERCOT; or a Reliability Coordinator that is applicable to the entity.
  - (4) **Emergency operations plan** -- the plan and attached annexes, maintained on a continuous basis by an entity, intended to protect life and property and ensure continuity of adequate electric service in response to an emergency.
  - (5) **Hazard** -- a natural, technological, or human-caused condition that is potentially dangerous or harmful to life, information, operations, the environment, or property.
  - (6) **Threat** -- the intention and capability of an individual or organization to harm life, information, operations, the environment, or property.
- (c) **Filing requirements.**
- (1) An entity must file an EOP **that lacks confidential portions in its entirety; if the entity's EOP does contain confidential portions, the entity must file a redacted form of the EOP for Commission review and public inspection with the confidential portions removed, and must also** ~~under this section~~ **make a complete unredacted copy of the EOP available to the commission for inspection in Austin within 90 days after the commission's adoption of this**

rule by April 1, 2022. Beginning in 2023, an entity must annually file an EOP, **complete or redacted**, no later than February 15 in the manner prescribed by the commission. **If the entity, files a redacted EOP, it must also make a complete unredacted copy of the EOP available to the commission for inspection in Austin.**

(A) — ~~An entity must file with the commission its unredacted EOP in its entirety and a public, redacted EOP.~~

ALTERNATIVE:

- (1) An entity must file an EOP **or a comprehensive detailed summary of its EOP** under this section **and make a complete unredacted copy of the EOP available to the commission for inspection in Austin within 90 days after the commission's adoption of this rule** by April 1, 2022.

Beginning in 2023, an entity must annually file an EOP **or a comprehensive detailed summary of its EOP** no later than February 15 in the manner prescribed by the commission **and make a complete unredacted copy of the EOP available to the commission for inspection in Austin.**

(A) — ~~An entity must file with the commission its unredacted EOP in its entirety and a public, redacted EOP.~~

~~(AB)~~ For an entity with operations within the ERCOT power region, the entity must submit its unredacted EOP in its entirety to ERCOT.

~~(BC)~~ Beginning in 2023, the annual EOP must include, for each incident in the prior calendar year that required the entity to activate its EOP, a summary after-action report that includes lessons learned and an outline of changes the entity made to the EOP as a result.

- (3) A person seeking registration as a PGC or certification as a REP must file an EOP with the commission at the time it applies for registration or certification with the commission, and must submit the EOP to ERCOT if it will operate in the ERCOT power region, no later than ten days after the commission approves the person's certification or registration.

- (4) Updated filings. An entity must file an updated EOP with the commission within 30 days under the following circumstances.
- (A) An entity must file an updated EOP if commission staff determines that the entity's EOP on file does not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency.
  - ~~(B) An entity must file an updated EOP in response to feedback provided from commission staff.~~
  - ~~(B)~~ (C) An entity must file an updated EOP if the entity makes a significant change to its EOP. A significant change to an EOP includes a change that has a material impact on how the entity would respond to an emergency. The entity must file with the commission the updated EOP or a comprehensive detailed summary of its updated EOP and make a complete unredacted copy of the updated EOP available to the commission for inspection ~~with the commission~~ no later than 30 days after the change takes effect.
  - ~~(C)~~ (D) An entity with operations within the ERCOT power region must submit its updated EOP under paragraphs (c)(4)(A); and (c)(4)(B); ~~and (c)(4)(C)~~ to ERCOT within 30 days of filing the updated EOP with the commission.
- (5) Notwithstanding the other requirements of this subsection, ERCOT must maintain its own a current EOP in its entirety, consistent with the requirements of this section and available for review by the commission or the commission's designee.
- (d) **Information to be included in the emergency operations plan.** An entity's EOP must address both ~~common~~ operational functions that can be used in for every type of emergency and annexes that outline the entity's response to the types of emergencies specified in subsection (e). Each entity's EOP must include the following information; if applicable. If a provision in this section does not apply to an entity, the entity must include in its EOP an explanation of why the provision does not apply.
- (1) An approval and implementation section that:
    - (A) introduces the EOP and outlines its applicability;
    - (B) lists the individuals responsible for maintaining and implementing the EOP, and those who can change the EOP;
    - (C) provides a revision control summary which outlines and dates each change made to the EOP since the last time the EOP was adopted by the entity;
    - (D) provides a dated statement that the current EOP supersedes previous EOPs; and
    - (E) the date the EOP was most recently approved by the entity.



- (2) A record of distribution that contains the following information in table format:
  - (A) titles and names of persons in the entity's organization receiving the EOP; and
  - (B) dates of distribution.
- (3) A list of emergency contacts for the entity, including identification of single points of contact during an emergency.
- (4) An affidavit from the entity's highest-ranking representative, official, or officer with binding authority over the entity affirming the following:
  - (A) relevant operating personnel are familiar with and have received training on the **applicable** contents of the EOP, and such personnel are committed to following the **applicable portions of the** EOP except to the extent deviations are appropriate as a result of specific circumstances during the course of an emergency;
  - (B) the EOP has been reviewed and approved by the appropriate executives;
  - (C) required drills have been conducted;
  - (D) the EOP or an appropriate summary has been distributed to local jurisdictions as needed;
  - (E) the entity maintains a business continuity plan that addresses returning to normal operations after disruptions caused by an incident; and
  - (F) the entity's emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received National Incident Management System training, specifically IS-700.a, IS-800.b, IS-100.b, and IS-200.b. **The entity's personnel who are designated to interact with ERCOT during emergency events are not subject to the requirements of this paragraph.**
- (5) A communication plan.
  - (A) An entity with transmission or distribution service operations must describe the procedures for handling complaints and for communicating with the public; the media; customers; the commission; local and state governmental entities, officials, and emergency operations centers; the applicable Reliability Coordinator; and critical load customers directly served during an emergency.
  - (B) An entity with generation operations must describe the procedures for communicating with the public; the media; the commission; fuel suppliers; local and state governmental entities, officials, and emergency operations centers; and the applicable reliability coordinator.

- (C) A REP must describe the procedures for communicating with the public, media, customers, and the commission and the procedures for handling complaints during an emergency.
- (D) ERCOT must describe the procedures for communicating, in advance of and during an emergency, with the public, the media, the commission, governmental entities and officials, the state emergency operations center, and market participants.
- (6) A plan to maintain pre-identified supplies for emergency response.
- (7) A plan that addresses staffing during emergency response.
- (8) A plan that addresses how an entity identifies weather-related hazards, including tornadoes, hurricanes, extreme cold weather, extreme hot weather, drought, and flooding, and the process the entity follows to activate the EOP.
- (9) Each relevant annex as detailed in subsection (e) and other annexes applicable to an entity.
- (e) **Annexes to be included in the emergency operations plan.**
  - (1) An electric cooperative, an electric utility, a municipally owned utility, or a transmission and distribution utility must include in its EOP for its transmission and distribution facilities the following annexes:
    - (A) An Emergency Restoration ~~cold-weather emergency~~ annex that includes:
      - (i) operational plans intended to mitigate the hazards of a ~~cold-weather~~ emergency, separate and distinct from the weather preparation standards required under §25.55 (relating to Weather Emergency Preparedness);  
**and**
      - (ii) ~~a checklist for transmission facility personnel to use during cold-weather emergency response; and~~
      - (iii) a requirement for pre- and post-weather emergency meetings to review lessons learned from past ~~cold-weather~~ emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.
    - (B) ~~A hot weather emergency annex that includes:~~
      - (i) ~~operational plans intended to mitigate the hazards of a hot weather emergency, separate and distinct from the weather preparation standards required under §25.55;~~

- ~~(ii) — a checklist for transmission facility personnel to use during hot weather emergency response; and~~
    - ~~(iii) — a requirement for pre- and post-weather emergency meetings to review lessons learned from past hot weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.~~
  - ~~(B)(C)~~ A load shed annex that must include:
    - (i) procedures for controlled shedding of load, ~~whether caused by planned or forced interruption of service; and~~
    - (ii) priorities for restoring shed load to service; ~~and~~
    - ~~(iii) — a registry of critical load customers, directly served, if maintained by an electric utility, an electric cooperative, or a municipally owned utility. The registry must be updated as necessary but, at a minimum, annually. The registry must include the process for maintaining an accurate registry, the process for providing assistance to critical load customers in the event of an unplanned outage, the process for communicating with the critical load customers, and the process for training staff with respect to serving critical load customers.~~
  - ~~(C)(D)~~ A pandemic and epidemic annex;
  - ~~(D)(E)~~ A wildfire annex that addresses both response to a wildfire emergency and plans intended to mitigate the hazards of wildfire to the entity's facilities;
  - ~~(E)(F)~~ A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by the Texas Division of Emergency Management (TDEM); and
  - ~~(G)~~ — A cyber security annex;
  - ~~(H)~~ — A physical security incident annex; and
  - ~~(F)(I)~~ Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (2) An electric utility or a municipally owned utility that operates a generation resource, an electric cooperative that operates a generation resource in Texas, and a PGC must include the following annexes listed below for its generation resources: **For purposes of this subdivision, a facility leased or owned by a transmission and distribution utility pursuant to Tex. Util. Code § 39.918 is not considered a generation resource.**
- (A) A cold weather emergency annex that includes:

- (i) operational plans intended to mitigate the hazards of a cold weather emergency, separate and distinct from the weather preparations standards under §25.55;
    - (ii) verification of the adequacy and operability of fuel switching equipment, if installed;
    - (iii) a checklist for generation resource personnel to use during cold weather emergency response; and
    - (iv) a requirement for pre- and post-weather emergency meetings to review lessons learned from past cold weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.
  - (B) A hot weather emergency annex that includes:
    - (i) operational plans intended to mitigate the hazards of a hot weather emergency, separate and distinct from the weather preparation standards under §25.55;
    - (ii) a checklist for generation resource personnel to use during hot weather emergency response; and
    - (iii) a requirement for pre- and post-weather emergency meetings to review lessons learned from past hot weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.
  - (C) A water shortage annex that addresses supply shortages of water used in the generation of electricity;
  - (D) A restoration of service annex that identifies plans intended to restore to service a generation resource that failed to start or that tripped offline due to a hazard or threat;
  - (E) A pandemic and epidemic annex;
  - (F) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
  - (G) A cyber security annex;
  - (H) A physical security incident annex; and
  - (I) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (3) A REP must include in its EOP the following annexes:

- (A) A pandemic and epidemic annex;
  - (B) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
  - (C) A cyber security annex;
  - (D) A physical security incident annex; and
  - (E) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (4) ERCOT must include the following annexes:
- (A) A pandemic and epidemic annex;
  - (B) A weather emergency annex that addresses ERCOT's plans to ensure continuous market and grid management operations during weather emergencies, such as hurricanes, tornadoes, extreme cold weather, extreme hot weather, and flooding;
  - (C) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
  - (D) A cyber security annex;
  - (E) A physical security incident annex; and
  - (F) Any additional annexes as needed or appropriate to ERCOT's particular circumstances.
- (5) A transmission and distribution utility that leases or operates facilities under § 39.918(b)(1) or procures, owns, and operates facilities under § 39.918(b)(2) must include an annex that details its plan for the use of those facilities.**
- (f) **Drills.** An entity must conduct or participate in one or more drills annually to test its EOP if its EOP has not been implemented in response to an incident within the **same calendar year**~~last 12 months~~. If the entity operates in a hurricane evacuation zone as defined by TDEM, at least one of the annual drills must include a test of its hurricane annex. Following the annual drills, the entity must assess the effectiveness of the drills and change its EOP as needed. An entity must notify commission staff, using the method and form prescribed by commission staff, as described on the commission's website, and the appropriate TDEM District Coordinators, by email or other written form, of the date, time, and location at least 30 days prior to the date of at least one drill each year.
- (g) **Reporting requirements.** Upon request by commission staff during an activation of the State Operations Center by TDEM, an entity must provide updates on the status of operations, outages, and restoration efforts. Updates must continue until all incident-related outages **of customers able to take service** are restored or unless otherwise notified by commission staff. After an

emergency, commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.

**EXECUTIVE SUMMARY of Oncor’s Initial Comments in Project No. 51841**  
*Oncor respectfully urges the Commission to carefully balance  
the need for transparency with the need for security of information about the electric system.*

- **Definition of “Emergency”** should be revised to include system emergencies and not events that only impact a single customer or a small number of customers. [§ 25.53(b)(3)]
- **Initial filing deadline** should be revised to require filing of the first EOP 90 days after new § 25.53 adopted instead of the proposed April 1, 2022 deadline. [§ 25.53(c)(1)]
  - Change will ensure that EOPs are consistent with the adopted rule and employees have been appropriately trained on the new rule.
- **Utilities should be allowed to file either its EOP in its entirety *or* a redacted version that removes confidential portions** and make their unredacted EOP available to Commission in Austin for inspection. [§ 25.53(c)(1)(A)]
  - **Alternatively, Commission could continue to allow an entity to file its EOP *or* a comprehensive summary of its EOP** and make its unredacted EOP available to Commission in Austin for inspection. [§ 25.53(c)(1)(A)]
- **Tracking and Filing of lessons learned** should not be required if “emergency” is interpreted to include more than “system emergencies.” [§ 25.53(c)(1)(C)]
- **Updating EOP to be required** only if Staff determines that EOP does not contain sufficient information to determine that utility can provide adequate electric service through an emergency. [§ 25.53(c)(4)]
- **ERCOT should be required to maintain its own EOP**, and each utility should maintain its own EOP given the critical and confidential information included. [§ 25.53(c)(5)]
- **Information to be included in EOP** should be revised to include only “operational functions used in emergencies.” [§ 25.53 (d)]
- **Affidavit Requirements should be revised** to only require that operating personnel be trained on portions of EOP they are responsible for implementing and not require NIMS training for those employees who interact with ERCOT during emergencies. [§ 25.53(d)(4)(A) & (F)]
- **Annexes:**
  - Cold & Hot Weather Annexes should be combined into an Emergency Restoration Annex. [§ 25.53 (e)(1)(A) & (B)]
    - Requirement for checklist is redundant and should be deleted. [§ 25.53(e)(1)(B)(ii)]
  - Load Shed Annex provision needs to be revised to eliminate reference to “planned or forced outages.” [§ 25.53(e)(1)(C)(i)]
    - Requirement for “Registry of critical load customers” should be deleted. [§ 25.53(e)(1)(C)(iii)]
  - Requirement for Cyber Security Annex and Physical Security Annex should be eliminated. [§ 25.53 (e)(1)(G) & (H)]
- **Annexes for generation resources:** Provision requiring entities to submit annexes for their generation resources should be revised to exclude facilities owned by a T&D utility under Tex. Util. Code § 39.918 and a separate annex should be added to address § 39.918(g). [§ 25.53(e)(2)]
- **Drills of EOP** should be conducted annually if EOP not implemented within the same calendar year. [§ 25.53(f)]
- **Reporting Requirements:** Status updates should continue until all outages of customers able to take service are restored. [§ 25.53(g)]